

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MICHAELA O. KARLE

Plaintiff,

v.

CAPITAL ONE, DISCOVER FINANCIAL
SERVICES, FIRST USA UNITED
SECURITY BANK, CHASE, AND
PROGRESSIVE INSURANCE COMPANY

Defendants.

Civil Action No. 3:14-CV-30062-MAP

MOTION TO DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant Discover Bank, incorrectly named as Discover Financial Services ("Discover") moves to dismiss the plaintiff's First Amended Complaint. Plaintiff Michaela O. Karle ("Plaintiff") fails to allege that she is a consumer and/or debtor with a debt owed to Discover, which is fatal to her federal Fair Debt Collection Practices Act and Massachusetts Fair Debt Collection Practices Act claims. Plaintiff also fails to allege with any sufficiency that she sent a demand letter as required by Mass. Gen. Laws ch. 93A. The Plaintiff also failed to attach the 93A demand letter to the First Amended Complaint. Accordingly, this Court should dismiss Counts I, III and IV of the Plaintiff's First Amended Complaint as against Discover.

In further support of its motion, Discover submits the attached Memorandum of Law in Support of Motion to Dismiss.

Respectfully submitted,

DISCOVER BANK incorrectly named as
DISCOVER FINANCIAL SERVICES

By its attorneys,

GOODWIN PROCTER, LLP

Dated: June 16, 2014

/s/ Christopher J. Somma
Christopher J. Somma (BBO#624988)
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CERTIFICATION PURSUANT TO LOCAL RULE 7.1

In accordance with the requirements of Local Rule 7.1(a)(2) of the United States District Court for the District of Massachusetts, I, Christopher J. Somma, certify that on multiple occasions in May and June 2014, I contacted the Plaintiff via email in an attempt to arrange a time to confer regarding Discover's Motion to Dismiss. I received no response.

Respectfully submitted,

DISCOVER BANK incorrectly named as
DISCOVER FINANCIAL SERVICES

By its attorneys,

GOODWIN PROCTER, LLP

Dated: June 16, 2014

/s/ Christopher J. Somma
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CERTIFICATE OF SERVICE

The undersigned understands that the following counsel of record are registered on the District Court's CM/ECF database. As a result, these individuals (1) will receive from the Court electronic notification of the filing of the *Motion to Dismiss First Amended Complaint*, filed via ECF on June 16, 2014; (2) have access to this document through the Court's website; and (3) will not receive paper copies of the foregoing from the undersigned upon filing.

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I certify that on June 16, 2014, a true copy of the foregoing *Motion to Dismiss First Amended Complaint* was served by first-class mail, postage prepaid upon the plaintiff, who is proceeding *pro se*:

Michaela O. Karle
7 Old South Street
Northampton, MA 01060

By: /s/ Christopher J. Somma
Christopher J. Somma (BBO#624988)